

1910-005
Lee Co.

Chancery Causes. McMillan & Hazen Co.] vs. Horneck Construction Co.] &c

Horneck, Taylor, Pennington, Kirk, Walker

CA-Debt
T-Property

To the Honorable H. A. W. Skeen, Judge of the Circuit Court for Lee County:

Humbly complaining your orator, McMillan & Hazen Company, a corporation, respectfully represents and shows unto your honor that the E. Horneck Construction Company, doing among other things a commissary or merchantile business at or near Ocoonita, Virginia, is a foreign Corporation and not a resident corporation of the state of Virginia; That the said E. Horneck Construction Company has estate or property situated in the county of Lee and State of Virginia, and that the said E. Horneck Construction Company is indebted to your orator in the sum *for goods wares & merchandise furnished by the said plaintiff to the said defendant* of \$428.69, *which became due and payable on November the 1st, 1908,* which sum of money your orator charges, represents and will show unto your honor *now* is due, owing, and unpaid to your orator, and that the said E. Horneck Construction Company has neglected, failed and refused to pay your orator said sum of money, although often requested so to do. Your orator is informed, believes, and charges that the said E. Horneck Construction Company is selling *and* encumbering its property situated in the county aforesaid, with the intention to hinder, delay *and defraud* your orator in the collection of its said debt.

The prayer therefore of your orator is that the said E. Horneck Construction *Company*, a corporation, be made party defendant to this bill of complaint, and be required to answer the same, but not under oath, answer under oath being expressly waived, and that an attachment ~~be~~ issue against the estate and property of the E. Horneck Construction Company, and that so much thereof be attached *as may be necessary* to secure the payment of said sum of money as aforesaid, together with interest, costs, and charges thereon, and that the said property so attached as aforesaid *together with interest thereon & the cost of this suit* be sold to satisfy the payment of said claim. And may all other further and general relief be granted your orator that the nature of his cause and good conscience requires. And *it* will ever pray &c.

McMillan Bros. p.d.

At its Statewide inclusion & request. It is from said Horneck Construction Co.;

Virginia,

Lee County, to-wit:

I, H. C. T. Ewing, clerk of the Circuit Court for Lee County, do hereby certify that R. L. Pennington, agent and attorney for the plaintiffs in this cause, this day personally appeared before me and made oath that the statements made in the foregoing bill of complaint are true to the best of his knowledge and belief.

Given under my hand this the 21st day of November, 1908.

H. C. T. Ewing, Clerk.

Costs:

Clerk \$13.13
Shiff. 5.00
atty. 15.00
N.P. 1.50
Witness 8.50
\$43.13

Mc Miller & Hogan Co

vs. Bice

R. Hornum Court
Co

~~~~~

Filed Nov. 21, 1908.

H.C. J. Ewing,

Clk.

1909 2nd Dec. Rules

Spa. with attach-  
ment ~~attached~~ en-  
dorsed as correct & D.N.

" 1st Jan. Rules

D.N. confirmed & can-  
cel for hearing.

Pennington Bros.

ATTORNEYS AT LAW,

JONESVILLE AND PENNINGTON GARVA.

TO THE HON. H. A. W. SKEEN, JUDGE OF THE CIRCUIT COURT FOR LEE  
COUNTY, VIRGINIA.

Humbly complaining, your orator, McMillan & Hazen Company, a Corporation, doing business in the City of Knoxville, Tennessee, as wholesale shoe merchants, would respectfully represent and show unto your honor, that on the 21st day of November, 1908, it filed its bill in Chancery in the Circuit Court for Lee County against Horneck Construction Company, which it then supposed and believed to be a Corporation organized under the laws of the State of Tennessee, for the purpose of attaching the effects and estate of the said Horneck Construction Company, supposed corporation as aforesaid, to secure to your complainant the sum of \$428.69, with interest thereon from the 1st day of November, 1908, to which said original bill of complaint reference is here made and said bill is asked to be treated as part of this amended bill as fully and completely as if the same should have been set out herein in full. Upon the attachment so issued in the said cause various goods, wares, and merchandise of the Horneck Construction Company were levied upon, including a commissary, a rock crusher, engine and boiler, and various tools and equipments of the said Horneck Constuction Company, for a complete list of which reference is here made to the Sheriff's return upon the said attachment. The said Horneck Construction Company answered the said original bill on the 13th day of February, 1909, admitting that it was a foreign corporation, for the complete text of which said answer reference is here made thereto.

Your orator would further represent and show unto your honor that after the suing out of the said attachment as aforesaid, another Chancery suit was instituted by E. C. Courtney and others against the Horneck Construction Company, a Corporation, which said bill was filed on the 23rd day of November, 1908, and in which said cause certain attachments were issued and various petitions were filed in said cause

by Mitchel, Powers Hardware Company, Baird Dry Goods Company. Middleboro Grocery Company, and the Good Roads Machinery Company, which said cause has become the general suit for the settlement of the affairs of the said Horneck Construction Company, and by a decree entered therein on the 15th day of February, 1909, G. E. Taylor was appointed as Receiver to take charge of and dispose of all the property of the said Horneck Construction Company and hold the same subject to the future order of this court, and subject to the attachments issued in that cause, and in the cause of your orator and certain law causes which had been instituted in the said court, to which said decree reference is here made and the same is asked to be treated as part thereof as fully and completely as if the same had been copied at length in this amended bill.

Your orator would further represent and show unto your Honor that after a portion of the property of the said Horneck Construction Company had been sold and disposed of, the said G. E. Taylor filed his resignation as Receiver on the 2nd day of July, 1909, and by an order entered in the said cause, Robt. L. Pennington was substituted as Receiver and qualified as such, and the said Taylor turned over to the said Pennington such part of the proceeds of the sale of said property as he had made, and the said Pennington has disposed of other property of the said Horneck Construction Company and some yet remains to be disposed of, and there is in the hands of the said Pennington as Receiver, the proceeds of the sale of said property amounting to a considerable sum, as well as some property yet to be disposed of.

After the appointment of the said Receivers as aforesaid, to-wit, on the 30th day of April, 1909, the said G. E. Taylor filed a laborers lien, setting up claim to the amount of \$1113.11, which said claim was recorded in the Office of the Clerk of this Court in Deed Book No. 48, page 274, and in Mechanic Lien Docket, page 9, and in the said general cause as aforesaid filed his answer setting up said labor lien on the property of the Horneck Construction Company, alleging that the said Horneck Construction Company was a mining corpo-

ration, and that under the statutes of Virginia in such cases made and provided that he was entitled to a lien upon the property of the said Company as such laborer. The said answer of the said Taylor in the said general cause as aforesaid of E. C. Courtney and others against the Horneck Construction Company was asked to be treated as a cross-bill, to which said cross-bill your orator is informed that the defendants thereto made answer and called upon the said Taylor to file said copy of its charter and by-laws. Your complainant and the other creditors of the said Horneck Construction Company interested in said suits, began to doubt the fact of the incorporation of said Company, and your orator alleges that it has, through its counsel, called upon the proper authorities of the State of Tennessee to ascertain whether or not said Horneck Construction Company is a corporation, and your orators allege that the said Horneck Construction Company is not a Corporation, but is a mere partnership composed of R. Horneck and G. E. Taylor. Your orator therefore in view of the fact that the said Horneck Construction Company is not a corporation, and in view of the fact that your orator has sued said corporation as a foreign corporation in attachment suit and has discovered that the said Company is not a Corporation, it is in doubt as to whether the attachment issued in this cause in its behalf is of any value, and that it is now necessary, in order for it to perfect its lien to sue out an ~~attachment~~ additional attachment upon the funds in the hands of the said Pennington as Receiver as aforesaid, and for that purpose to amend its bill and to make the said R. Horneck and G. E. Taylor, and Robt. L. Pennington, parties thereto.

But your orator is further advised that John Kirk is indebted to said R. Horneck in the sum of \$120.00 and that the said R. Horneck has a pair of mules in Lee County, Virginia, of the value of about \$200.00.

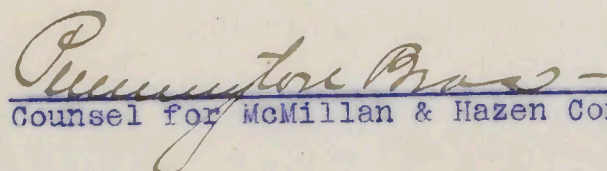
Your orator further alleges that the said R. Horneck is a non-resident of the State of Virginia, that the said R. Horneck and the said G. E. Taylor undertook to hinder, delay and defraud their credi-

tors by the execution of a Deed of Trust dated on the 21st day of November, 1908, to secure to the said G. E. Taylor the sum of \$1600.00 a Copy of which said deed is filed as exhibit in the said principle cause, to which said deed reference is here made ~~and~~ asked to be treated as a part of this bill.

Your orator alleges that the said deed is a voluntary deed; that the same was made for the purpose of hindering, delaying and defrauding the creditors of the said Horneck Construction Company, the said partnership composed of the said Taylor and Horneck.

The object therefore of this bill is to attach all the funds in the hands of the said Pennington, Receiver as aforesaid; to attach the said mules, and any other property which may be found of the said R. Horneck, and to have set aside the said fraudulent deed as aforesaid of November 1st, 1908.

To this end therefore your orator prays that it be allowed to amend its said bill, to have the said property as aforesaid attached, and that the said R. Horneck and G. E. Taylor as partners aforesaid, doing business under the name of Horneck Construction Company, Robt. L. Pennington, Receiver of Horneck Construction Company, and John Kirk be made parties defendant to this bill of complaint, and be required to answer the same, but not under oath, answer under oath being expressly waived, that a personal judgment be rendered against the said R. Horneck and G. E. Taylor for the said debt as aforesaid, with interest thereon as aforesaid, that the said funds, property, and debt as aforesaid be attached and held subject to the lien of said attachment for the payment of your orators debt as aforesaid, and may all other, further and general relief be granted your orator that the nature of its cause and good conscience requires and it will ever pray &c.

  
Counsel for McMillan & Hazen Company.

Virginia,

Lee County, to-wit:

I, H.C.T. Ewing, Clerk of the Circuit Court for Lee County,

do certify that Robt. L. Pennington, agent and attorney for McMillan & Hazen Company, this day made oath that the statements made in the foregoing bill are true as he verily believes.

Given under my hand this the 20<sup>th</sup> day of January, 1910.

N. C. D. Ewing, Clerk.

McMillan & Co

vs. { Amundson  
Bice

R. Hornum et al

Filed Jan 21, 1910,  
H.C. J. Ewing,

1910 1<sup>st</sup> Mar. Rules  
Amended petition  
filed, Spa exe-  
cuted & D.N.  
" 2<sup>nd</sup> Mar. Rules  
D.N. confd and  
cause set for  
hearing.

CIRCUIT COURT OF LEE COUNTY

McMillan & Hazen Company, a corporation, Complainant,

vs-

Horneck Construction Company, Defendant,

Answer of Horneck Construction Company.

The Horneck Construction Company, for answer to the said bill  
*It admits it is a foreign corporation but*  
says: That the debt therein set out is neither just, due nor  
unpaid; AND,

A  
That complainant is not entitled to any attachment thereon.

Respondent says that the goods, wares and merchandize furnished  
amounting to the alleged sum of \$428.69 as set out therein were  
sold to respondent on condition that complainant would take back  
any of said goods that respondent could not sell within a reason-  
able time; that said goods sold were shoes sold under said agreement  
and that respondent is ready to enter into an accounting with com-  
plainant to ascertain what amount of said goods it should pay for  
and what amount should be taken back by complainant under said  
agreement.

Respondent denies that it is selling or incumbering its prop-  
erty situated in the county of Lee with intent to hinder, delay or  
defraud complainant or any one else in the collection of their  
debt, and denies that there is any necessity for a sale of said  
attached property, or, that complainant has a right to any such sale  
and prays that the said attachment be quashed and said bill be  
dismissed.

And now having fully answered, respondents prays to be hence  
dismissed with its costs in this behalf expended.

*Horneck Construction Co.*  
*by counsel*

*Bullett & Chace*  
*p.h.*



Virginia,

Lee County, to-wit:

I, John Kirk, hereby certify that I have been employed by the Horneck Construction Company to feed and attend to the mules and stock which they have at their commissary at Truro mines. A short time before I began attending to said stock they sold one pair of mules and a wagon which had been levied on by Mr. Tucker in the attachment suits which E. C. Courtney, myself and others brought against the Horneck Construction Company, to a man living in Wise County, whose name I now remember was Starnes. They are also selling goods out of the store that was levied on.

Given under my hand this the 8th day of February, 1909.

John Kirk

Subscribed and sworn to before me, Allie O. Freeman, a Notary Public in and for the county of Lee, and State of Virginia.

This the 8th day of February, 1909.

Allie O. Freeman N.P.

McMillan, Hague Co

v2. } Affidavit

Hornick Court. Co

Filed Feb. 9, 1909

S. C. D. Ewing,  
Clerk.

The deposition of Thos. A. Walker, taken before me, Allie O. Freeman, a Notary Public in and for the County of Lee and State of Virginia, pursuant to notice hereto attached, at the Law office of R. L. Pennington, in the Town of Jonesville, Virginia, on the 5th day of April, 1909, to be read as evidence on behalf of the plaintiffs in a certain suit in Chancery depending in the Circuit Court for Lee County, wherein McMillan & Hazen Company is plaintiff, and Horneck Construction Company is defendant.

Present: R. L. Pennington of counsel for plaintiff.

Thos. A. Walker, a witness of lawful age being duly sworn deposes and says:

Q-1- Please state your place of residence and occupation?

A. Knoxville, Tenn. Traveling salesman for McMillan & Hazen Company.

Q-2- As such salesman did you make a sale of goods to the Horneck Construction Company, doing business near Truro mines in this County in the latter part of the year 1908?

A. I made several sales to them at different times. I do not remember the dates of the different bills I sold them.

Q-3- I will ask you to procure and furnish to the Notary as part of your deposition, a statement of the amounts and dates of the different invoices of goods which you sold the Horneck Construction and filed the same as part of your deposition as exhibit "No.1."?

A. I will procure the statement and mark them as requested.

Q-4- What amount does the Horneck Construction Company owe McMillan & Hazen Company?

A. \$428.69 as of November 1st, 1908.

Q-4- It is alleged in the defendants answer filed in this cause that at the time that the Horneck Construction Company bought the said goods, that said sale was a conditional sale and that you agreed to take back all goods not sold within a reasonable time. I will ask you to state whether or not any such agreement was entered into by you and the Horneck Construction Company or any of its agents?

A. There was not.

Q-5- Was there any condition whatever attached to the sales you made to the Horneck Construction Company?

A. None whatever.

Q-6- Is this debt which your Company claims now due?

A. Due and long past due.

Q-7- I will ask you to state whether or not if ever after these goods were sold, you presented statements of the accounts which was due at the time to R. Horneck or Horneck Construction Company, or any of its officers and agents, and if so, did either of them claim any off-sets of conditions or reasons for non-payment of said accounts?

A. I have presented them statements on several occasions, and they did not claim any reason for not paying, only they did not have the money and said they would pay as soon as possible.

And further this deponent sayeth not.

*Witness claims, day &  
mileage from Shreveport 100 miles - \$8<sup>50</sup>*

*Thos. A. Walker*

Virginia, Lee County, to-wit:

I, Allie O. Freeman, a Notary Public, in and for the County of Lee and State aforesaid, do hereby certify that the foregoing deposition of Thos. A. Walker was duly taken, sworn to and subscribed before me at the time and place and for the purpose in the caption mentioned.

Given under my hand this the 5th day of April, 1909.

*Allie O. Freeman* N.P.

*Bill of Costs -*

*Notary fee -*

*Witness -*

*Serving Notice*

*\$1<sup>50</sup>*

*8.50*

*50*

*( 10<sup>50</sup>*

## DIRECTORS

E. E. McMILLAN ASA HAZEN  
M. S. McCLELLAN H. L. MATLOCK  
J. D. FARRELL

Knoxville, Tenn., Nov. 1, 1908. 190

ITEMIZES ACCOUNT OF Horneck Construction Co.,

Ocoonita, Va.

TERMS:

**Bought of McMILLAN & HAZEN CO.**

Incorporated

Wholesale Boots, Shoes and Rubbers

No. 122 Gay Street

Interest Charged After Maturity

TRENT PRINTING CO., KNOXVILLE

May 20, 1907, - Due July 1st, 1907.

|     |    |    |              |      |           |             |
|-----|----|----|--------------|------|-----------|-------------|
| 200 | 12 | Pr | Mens Kg Bals | 6/10 | 2.50..... | 30.00       |
| 242 | 12 | "  | " "          | "    | 1.60..... | 19.20       |
| 491 | 12 | "  | " Bx Cf Blu  | "    | 1.85..... | 22.20       |
| 615 | 12 | "  | " St Cf "    | "    | 1.50..... | 18.00       |
| 486 | 12 | "  | " Bx Cf "    | "    | 2.50..... | 30.00       |
| 487 | 12 | "  | " Vic Blu    | 6/9  | 2.50..... | 30.00       |
| 751 | 12 | "  | " Pat "      | "    | 2.75..... | 33.00       |
| 49  | 6  | "  | " " Ox       | "    | 2.50..... | 15.00       |
| 804 | 6  | "  | " Vic "      | "    | 1.35..... | 8.10        |
|     |    |    |              |      |           | \$ 205.50 ✓ |

Aug. 1, 1907, - Due Nov. 1, 1907.

|     |    |     |                |       |              |          |
|-----|----|-----|----------------|-------|--------------|----------|
|     | 12 | Pr. | Mens L B Boots | 6/8   | 4.25.....    | 51.00    |
| 361 | 12 | "   | " Tan Blu      | 5/8   | 3.00.....    | 36.00    |
| 365 | 12 | "   | " Vel "        | 5/7/2 | 2.85.....    | 34.20    |
| 902 | 12 | "   | Boys Vic "     | 3/6   | 1.50.....    | 18.00    |
| 913 | 12 | "   | Yths Bx Cf Blu | 13/2  | 1.40.....    | 16.80    |
| 914 | 12 | "   | L G " "        | 10/13 | 1.30.....    | 15.60    |
| 435 | 12 | "   | O La Kg Pol    | 4/6   | 1.20.....    | 14.40    |
| 426 | 12 | "   | Wos " "        | "     | 1.25.....    | 15.00    |
| 83  | 12 | "   | O La Dg Pol    | "     | 1.00.....    | 12.00    |
| 463 | 6  | "   | " Vic Blu      | 2/2/5 | 1.85.....    | 11.10    |
| 301 | 6  | "   | Wos Pat "      | "     | 2.00.....    | 12.00    |
| 294 | 1  | "   | " " "          | 3/2   | Free.        |          |
| 990 | 12 | "   | Inf So Sole    | 0/4   | .37 1/2..... | 4.50     |
| 960 | 12 | "   | " " "          | 2/5   | .18 3/4...   | 2.25     |
|     |    |     |                |       |              | 242.85 ✓ |

Aug. 1, 1907, - Due Nov. 1, 1907.

|                        |    |     |             |     |           |         |
|------------------------|----|-----|-------------|-----|-----------|---------|
| 547                    | 12 | Pr. | Mens Kg Blu | 6/8 | 2.25..... | 27.00   |
| 545                    | 12 | "   | " " "       | "   | 2.25..... | 27.00   |
| 674                    | 12 | "   | " Bx Cf Blu | "   | 2.00..... | 24.00   |
| 207                    | 12 | "   | " Gr Bals   | "   | 1.60..... | 19.20   |
|                        |    |     |             |     |           | 97.20 ✓ |
| Cash, Prepaid Freight, |    |     |             |     |           | 3.43 ✓  |

Oct. 17, 1909., Due Jan. 1, 1908.

|     |    |     |             |      |           |         |
|-----|----|-----|-------------|------|-----------|---------|
| 426 | 12 | Pr. | Wos Kg Pol  | 3/7  | 1.25..... | 15.00   |
| 472 | 12 | "   | " Dg Pol    | 3/6  | 1.50..... | 18.00   |
| 298 | 12 | "   | " " "       | "    | 1.60..... | 19.20   |
| 284 | 12 | "   | Miss Dg Pol | 13/2 | .95.....  | 11.40   |
| 285 | 12 | "   | Chi " "     | 9/12 | .85.....  | 10.20   |
| 288 | 12 | "   | " " "       | 6/8  | .75.....  | 9.00    |
|     |    |     |             |      |           | 82.80 ✓ |

Oct. 18, 1907, - Due Jan. 1, 1908.

|     |    |     |                 |       |           |          |
|-----|----|-----|-----------------|-------|-----------|----------|
| 751 | 12 | Pr. | Mens Pat Blu    | 5/7/2 | 2.75..... | 33.00    |
| 242 | 12 | "   | " Kg Bals       | 6/8   | 1.60..... | 19.20    |
| 547 | 12 | "   | " Tan Blu       | 6/10  | 2.35..... | 28.20    |
| 361 | 6  | "   | " " "           | 5/6/2 | 3.00..... | 18.00    |
| 92  | 12 | "   | Yths S Kip Ties | 13/2  | 1.10..... | 13.20    |
| 284 | 12 | "   | Miss Kg Pol     | "     | .95.....  | 11.40    |
| 285 | 12 | "   | Chi " "         | 9/12  | .85.....  | 10.20    |
| 288 | 12 | "   | " " "           | 5/8   | .75.....  | 9.00     |
| 231 | 1  | "   | Mens Bx Cf Blu  | 10    | .....     | 3.25     |
| 116 | 2  | "   | " Pat Blu       | 6-7/2 | 3.25..... | 6.50     |
|     |    |     |                 |       |           | 151.95 ✓ |

Cash, Prepaid Freight, ..... 1.67 ✓

Nov. 14, 1907, - Due Jan. 1, 1908.

|                        |    |     |           |      |           |       |       |
|------------------------|----|-----|-----------|------|-----------|-------|-------|
| 87                     | 12 | Pr. | Mens Ties | 6/11 | 1.35..... | 16.20 |       |
| 89                     | 12 | "   | Boys "    | 3/6  | 1.20..... | 14.40 |       |
|                        |    |     |           |      |           |       | 30.60 |
| Cash, Prepaid Freight, |    |     |           |      |           | ..... | .49   |

Dec. 14, 1907, - Due Mar. 1, 1908.

|                        |    |     |              |      |           |       |        |
|------------------------|----|-----|--------------|------|-----------|-------|--------|
| 425                    | 12 | Pr. | Wos Kg Pol   | 3/7  | 1.20..... | 14.40 |        |
| 424                    | 12 | "   | " " Blu      | "    | 1.20..... | 14.40 |        |
| 430                    | 12 | "   | " " Pol      | 4/7  | 1.20..... | 14.40 |        |
| 192                    | 12 | "   | Mens Kg Bals | 6/10 | 2.50..... | 30.00 |        |
| 192                    | 12 | "   | " " "        | 6/9  | 2.50..... | 30.00 |        |
|                        |    |     |              |      |           |       | 103.20 |
| Cash, Prepaid Freight, |    |     |              |      |           | ..... | .98    |

May 11, 1908., Due Sept. 1, 1908.

|                        |    |     |                |     |           |       |        |
|------------------------|----|-----|----------------|-----|-----------|-------|--------|
| 195                    | 12 | Pr. | Mens Bx Cf Blu | 6/8 | 1.50..... | 18.00 |        |
| 911                    | 12 | "   | " " "          | 6/9 | 1.85..... | 22.20 |        |
| 753                    | 12 | "   | " Vic Blu      | "   | 2.65..... | 31.80 |        |
| 399                    | 12 | "   | " St Cf "      | "   | 1.20..... | 14.40 |        |
| 324                    | 12 | "   | " Gt Blu       | "   | 1.15..... | 13.80 |        |
| 243                    | 12 | "   | " Kg Blu       | "   | 1.50..... | 18.00 |        |
| 620                    | 12 | "   | " Tan "        | "   | 2.00..... | 24.00 |        |
| 185                    | 12 | "   | " Vic "        | 6/8 | 2.25..... | 27.00 |        |
| 183                    | 12 | "   | " Bx Cf Blu    | "   | 2.25..... | 27.00 |        |
| 751                    | 6  | "   | " Pat Blu      | 5/8 | 2.65..... | 15.90 |        |
| 232                    | 1  | "   | " Vic "        | 10  | .....     | 2.00  |        |
|                        |    |     |                |     |           |       | 214.10 |
| Cash, Prepaid Freight, |    |     |                |     |           | ..... | 1.91   |

May 18, 1908, - Due Sept. 1, 1908.

|                        |    |     |             |      |           |       |       |
|------------------------|----|-----|-------------|------|-----------|-------|-------|
| 508                    | 12 | Pr. | Mens Kg Blu | 6/11 | 1.60..... | 19.20 |       |
| 357                    | 6  | "   | " Tan "     | 5/8  | 2.75..... | 16.50 |       |
|                        |    |     |             |      |           |       | 35.70 |
| Cash, Prepaid Freight, |    |     |             |      |           | ..... | .49   |

|           |    |         |
|-----------|----|---------|
| Total,    | \$ | 1172.87 |
| Interest, |    | 5.82    |
|           | \$ | 1178.69 |

C R E D I T S.

|                 |          |    |        |        |
|-----------------|----------|----|--------|--------|
| Sept. 26, 1907, | By Cash, | \$ | 100.00 |        |
| Oct. 17, 1907,  | " "      | \$ | 100.00 |        |
| Dec. 4, 1907,   | " "      | \$ | 100.00 |        |
| Feb. 19, 1908,  | " "      | \$ | 200.00 |        |
| Apr. 24, 1908,  | " "      | \$ | 150.00 |        |
|                 |          |    |        | 750.00 |

Balance Due, ---\$ 428.69

*Filed with my Deposition. Given April 5, 1909. in the Case of McGowan & Hogan Co vs. Hornick Construction Company as Exhibit No 1.*  
*Thos A Waider*

*M. Miller & Son Co*

*vs Exhibit  
No. 1*

*Deposited  
A. Arnold*

*Wm. H. Construction Co*

Nov. 30 '1903 - Due July 1st '1903.

|     |    |   |   |   |      |       |
|-----|----|---|---|---|------|-------|
| 804 | 15 | " | " | " | 1.35 | 6.10  |
| 804 | 15 | " | " | " | 3.20 | 12.00 |
| 804 | 15 | " | " | " | 3.35 | 33.00 |
| 804 | 15 | " | " | " | 3.20 | 30.00 |
| 804 | 15 | " | " | " | 3.20 | 30.00 |
| 804 | 15 | " | " | " | 1.20 | 13.00 |
| 804 | 15 | " | " | " | 1.82 | 25.50 |
| 804 | 15 | " | " | " | 1.60 | 13.50 |
| 804 | 15 | " | " | " | 5.60 | 30.00 |

\$ 502.20

|     |    |   |   |   |       |       |       |
|-----|----|---|---|---|-------|-------|-------|
| 800 | 15 | " | " | " | 3/2   | 18.34 | 5.52  |
| 800 | 15 | " | " | " | 0/4   | 3.15  | 4.20  |
| 804 | 15 | " | " | " | 3/5   | 1.65  |       |
| 807 | 9  | " | " | " | 5/5/2 | 5.00  | 15.00 |
| 482 | 9  | " | " | " | "     | 1.82  | 11.10 |
| 83  | 15 | " | " | " | "     | 1.00  | 15.00 |
| 482 | 15 | " | " | " | "     | 1.32  | 12.00 |
| 482 | 15 | " | " | " | "     | 1.30  | 14.40 |
| 482 | 15 | " | " | " | "     | 1.30  | 12.40 |
| 482 | 15 | " | " | " | "     | 1.40  | 16.80 |
| 808 | 15 | " | " | " | "     | 1.20  | 18.00 |
| 802 | 15 | " | " | " | "     | 3.85  | 24.50 |
| 801 | 15 | " | " | " | "     | 3.00  | 24.00 |
| 801 | 15 | " | " | " | "     | 4.52  | 21.00 |

\$45.32

|     |    |   |   |   |   |      |       |
|-----|----|---|---|---|---|------|-------|
| 804 | 15 | " | " | " | " | 1.60 | 13.50 |
| 804 | 15 | " | " | " | " | 2.00 | 24.00 |
| 804 | 15 | " | " | " | " | 2.52 | 23.00 |
| 804 | 15 | " | " | " | " | 5.52 | 23.00 |

\$43

Oct. 15 '1903 - Due Jan. 1 '1903.

|     |    |   |   |   |      |      |       |
|-----|----|---|---|---|------|------|-------|
| 804 | 15 | " | " | " | 6/8  | 3.20 | 3.00  |
| 804 | 15 | " | " | " | 3/15 | 3.20 | 10.83 |
| 804 | 15 | " | " | " | 13/5 | 3.20 | 11.43 |
| 804 | 15 | " | " | " | "    | 1.60 | 13.50 |
| 804 | 15 | " | " | " | 3/2  | 1.20 | 18.00 |
| 804 | 15 | " | " | " | 3/1  | 1.52 | 12.00 |

\$5.80

|     |    |   |   |   |       |      |       |
|-----|----|---|---|---|-------|------|-------|
| 804 | 15 | " | " | " | 13/5  | 1.10 | 13.50 |
| 804 | 15 | " | " | " | 2/2/5 | 3.00 | 16.00 |
| 804 | 15 | " | " | " | 6/10  | 2.35 | 26.50 |
| 804 | 15 | " | " | " | 6/8   | 1.60 | 13.50 |
| 804 | 15 | " | " | " | 2/1/5 | 2.35 | 26.00 |

LETTERS ACCOUNT OF HOMER CONSTRUCTION CO.

Oconomist, Va.

BOYD & MILLER & HAZEN CO.

Nov. 1 '1903.

To Horneck Construction Company,

Take notice that we shall, on the 5th day of April, 1909,  
at R.L.Pennington's Law Office in the town of Jonesville, Va.,

between the hours of 8 A. M. and 8 P. M., on that day, proceed to take the depositions  
of Thomas Walker, et al and others, to be read in evidence in our behalf,  
in a certain suit depending in the Circuit court for the  
of Lee wherein you are Defendant  
and we are plaintiff's.

and if from any cause, the taking of the said depositions be not commenced on that day, or, if commenced, be not concluded on that day, the taking of the same will be adjourned and continued from day to day, or from time to time, at the same place and between the same hours, until the same shall be completed.

Very respectfully,

McMillen and Hazen Co.,

By Pennington Bros. attorneys.

Copy for  
Horneck Const. Co -

*W. M. Miller & Son Co.*

vs. }

NOTICE TO TAKE  
DEPOSITIONS.

*Harwood Co.*

*P. Brown* p. q.

Virginia, Lee County, to wit:

I hereby certify and make oath that on the 17th day of March, 1909,  
I delivered a true copy of the within Notice to R. Horneck, president of  
the Horneck Construction company.

*Robert L. Hutchinson*

Subscribed and sworn to before me, the undersigned Notary Public in  
and for Lee County, Va., on the 18th day of March, 1909.

*Allie C. Freeman* N.P.

McCuller Hogan Co

vs. { Depositions

Hornum & Co. Co.

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Recd of R. D. Freeman & P.  
Filed April 7-1909-  
J. C. Ewing,  
Clerk.

Cosco -

#105

McMillan & Hazen Company, A Corporation .....

Vs.

R. Horneck and G. E. Taylor, late partners in trade, doing business under the firm name of Horneck Construction Company.

COMMONWEALTH OF VIRGINIA, COUNTY OF LEE, TO-WIT:

This day and on an amended bill in equity filed in the clerk's office of our Circuit Court for Lee County against R. Horneck and G. E. Taylor, late partners in trade doing business under the firm name of Horneck Construction Company, Robt. L. Pennington, Receiver for Horneck Construction Company, and John Kirk, for the purpose of having an attachment to secure and enforce a claim against said R. Horneck and G. E. Taylor, partners as aforesaid, to a debt, Robt. L. Pennington, agent and attorney for the (said McMillan & Hazen Company,) plaintiff, in said bill, personally appeared before me H.C.T. Ewing, clerk of our said Court, at the clerk's office thereof, in the State and County aforesaid, and made oath that the plaintiff's claim is believed to be just and is now due and payable; that the affiant believes that the plaintiff is entitled to and ought to recover at least the sum of (\$428.69,) with interest thereon from the (1st) day of (November, 1908,) until paid, and that to the best of the affiants belief, the said defendant R. Horneck is not a resident of the State and has estate, property, and debts due to him within the County of Lee and intends to remove his own estate and the proceeds of the sale thereof out of this state, so that process of execution on a decree when obtained in said suit, will be unavailing, and the said G. E. Taylor and R. Horneck are converting their property, and are about to convert their property, and have converted their property of whatever kind into money, securities, and evidences of debt, with intent to hinder, delay and defraud their creditors, and they have assigned their estate, and are about to assign their estate, and have disposed of their estate, with intent to hinder, delay and defraud their creditors.

Given under my hand this the 20th day of January, 1910.

Robert L. Huntington  
Agent and Attorney for McMillan & Hazen Co.

Subscribed and sworn to before me this the 20th day of January,  
1910. In testimony whereof I have hereunto set my hand this the day  
and month and year aforesaid.

Robert L. Huntington Clerk.

H. C. P. Luong, Clerk.

McMillen & Hogue Co

B. } Affidavit

R. Hornum et al

Filed Jan. 21, 1910,

H. C. J. Ewing,

Clerk.

In the Clerk's Office of the Circuit Court of the Co of  
Lee. Nov. 2<sup>nd</sup> 1908

Mc Miller & Hogan Co.  
vs.  
R. Harnack Construction Co.

This day R. P. Thompson <sup>Attorney for Mc Miller & Hogan Co.</sup> agent and made oath before me, H. C. P. Ewing

Clerk of the said Court, that the claim of the plaintiff asserted in this suit amounts to ~~\$428.69~~ with  
interest thereon from the 1<sup>st</sup> day of Nov. 1908, and that the same is now due owing  
unpaid and is just; that there is present cause of action therefor; that the defendant R. Harnack  
Construction Company, is a foreign corporation and is not a  
resident of this State; and that he (the affiant) believes the said defendant R. Harnack  
Construction Company  
has estate or debts due it within the said County of Lee.

Given under my hand as clerk of the said court, the day and year first above written.

H. C. P. Ewing, Clerk.

*McMillan & Hazen Co.*

U.S.

Affidavit for Attachment

*vs.*  
} *Ext. of Non-Resident Debtor*  
Estate of Non-Resident Debtor.

*H. Horne Construction Co.*

*Filed Nov. 21, 1908.*  
*A. C. T. Ewing,*  
*Clk.*

*and returned in return*  
Executed the within attachment, by delivering a copy thereof to  
G. E. Taylor, Agent and officer of the Horneck  
Construction Company in Lee County, Virginia, on the 23<sup>rd</sup> day of  
November, 1908, and by levying upon a stock of goods known as the  
Truro Commissary, an itemized copy of which I have in my possession,  
said stock of goods consisting of various articles and of the value of  
about \$1800.00. Also the following other property as the property of  
the Horneck Construction Company.

- 3 Big Plows.
- 6 water barrels.
- 10 drag scrapers.
- 27 wheel-barrrows.
- 6 wheel scrapers.
- 1 hand pump and hose.
- 1 set Bellows.
- 1 Anvil
- 1 Blacksmith Vice.
- 1 Pile Coal at Crusher about 200 bushels.
- 3 tool boxes.
- A lot of loose lumber at crusher and lumber over shed of en-  
gine.
- 1 engine and boiler and fixture.
- 1 Rock Crusher and fixture.
- 2 wagon wheels.
- 3 two horse wagons.
- 1 bay horse.
- 4 black horse mules.
- 11 set of Dump cart harness.
- 3 set of harness and bridles.
- 1 gray mare mule.
- 1 sorrel mare mule.
- 1 halter.
- 1 saddle, blanket, and riding bridle.
- 32 bales of hay
- 23 boxes of dynamite
- 4 water buckets (been used.)
- 1 battery fuse.
- 1 battery.
- 42 picks.
- 11 crow bars.
- 50 drills.
- 33 rock and sledge hammers.
- 1 cross cut saw.
- 29 mattocks (been used)
- 35 shovels (been used)
- 6 pieces of bar iron
- 3 rakes.
- 1 box of tools (saw, hand hammer and tongs &c.)
- 1 can cup grease
- 10 gallons black oil.
- 10 gallons engine oil.
- 1 can and one gallon of oil.
- 2 oil tanks and measures.
- 2 boxes of envelopes.
- 1 Oliver typewriter.
- 5 day books.
- 4 Ledger books.
- 1 Black small Ledger record book.
- 1 red backed record book of Horneck Construction Company (Incor-  
poration) taken in possession by W. Y. Tucker.

2 rolls of wrapping paper  
151 pair of Ladies and childrens and misses hose.  
4 bars of steel  
10 water pipes (one inch in diameter)  
130 pieces of tiling.  
1 car coal at Ben Hur, Va. L&N. car 68442.  
1 hand pump at Ben Hur, Va.

W. G. Tucker  
Sheriff of Lee County, Virginia.

The Commonwealth of Virginia,

To the Sheriff of the County of Lee, Greeting:

WE COMMAND YOU, That you summon H. Horneck Construction Co., a corporation,

to appear at the Clerk's Office of the Circuit Court of the County of Lee  
at the rules to be held for the said Court on the 3rd Monday in December, 1898,  
to answer a bill in Chancery, exhibited against it in our said Court by McMillen  
& Hazen Co., a corporation,

And have then there this writ. Witness, H. C. I. Ewing, Clerk of our said  
Court, at the court-house, the 21st day of November, 1898, and in the 133rd year  
of the Commonwealth.

H. C. I. Ewing, Clerk.

Commonwealth of Virginia,

To the Sheriff of Lee County, Greeting:

Whereas McMillen & Hazen Co., a Corporation, this day filed its bill in equity against ~~R.~~ Horneck Construction Co., a corporation, in the Clerk's office of our Circuit Court in the County of Lee for the purpose of having an attachment to secure and enforce its claim against the said ~~R.~~ Horneck Construction Co., a corporation, to a certain debt claimed by the said McMillen & Hazen Co. against the said ~~R.~~ Horneck Construction Co., a corporation; and,

Whereas Robt. L. Pennington, agent and attorney for the said plaintiff in the said bill, has before me in my said office in the County of Lee and State of Virginia, made affidavit that the plaintiff's claim is believed to be just and is now due and payable; that the affiant believes that the plaintiff is entitled and ought to recover, at least the sum of \$428.69, with interest thereon from the 1st day of November, 1908, until paid. And to the best of the affiant's belief the said defendant ~~R.~~ Horneck Construction Co., a corporation, is a foreign corporation and is not a resident of this State; and, *has estate or debts due it in the said County of Lee, Va.*

Whereas, upon such affidavit, the plaintiff doth now require me, the said Clerk, to endorse on a summon and order to the officer to whom it is directed to attach the said estate of the said defendant, ~~R.~~ Horneck Construction Co., a corporation, whether in its hands or in the hands of others;

Therefore, we order and command you this day to attach the estate of the above mentioned defendant for the amount of said claim of said McMillen & Hazen Co., a corporation, together with sufficient amount to pay the costs of this suit, and such estate so attached in your hands to secure <sup>there</sup> that the same shall be forthcoming and liable to further proceedings, upon to be heard <sup>and</sup> before our said Court at the next February term thereof, 1909; and that you on the first day of the said term have then and there this writ and make return how you have executed the same.

Witness, H. C. T. Ewing, Clerk of our said Court, at the court-house, thereof, in the County of Lee and State aforesaid, the 21st day of November, 1908,, in the 133rd year of the Commonwealth.

*H. C. T. Ewing*, Clerk.

Form No. 300.

*McMillen & Hazen Co.*

SUBPOENA  
IN  
CHANCERY.

vs.

*R. Horneck Construction Co.*

*Pennington Bros., p. q.*

Rules

To *2nd Decr.*

Court.

*Lee Circuit*

*1908*

*See Return in case*

COMMONWEALTH OF VIRGINIA,

*Wise*  
TO THE SHERIFF OF THE COUNTY OF ~~LEE~~, GREETING:

Whereas McMillan & Hazen Company, a Corporation, this day filed its amended bill against R. Horneck and G. E. Taylor, late partners in trade under the name of Horneck Construction Company and Robt. L. Pennington, Receiver of Horneck Construction Company, and John Kirk, in the Clerk's Office of our Circuit Court, in the County of Lee, for the purpose of having an attachment to secure and enforce its claim against the said G. E. Taylor and R. Horneck, partners as aforesaid, to a certain debt claimed by the said McMillan & Hazen Company against the said R. Horneck and G. E. Taylor, partners; and,

Whereas Robt. L. Pennington, agent and attorney for the said plaintiff in the said bill, has before me in my said office in the County of Lee and State of Virginia, made affidavit that the plaintiff's claim is believed to be just and is now due and payable; that the affiant believes that the plaintiff is entitled to and ought to recover at least the sum of \$428.69, with interest thereon from the 1st day of November, 1908, until paid, as against the said R. Horneck and G. E. Taylor, partners. And to the best of the affiant's belief the said defendant, the said R. Horneck, is a non-resident of the State of Virginia and has estate, debts, and property owing and belonging to him within the said County of Lee, and that the said G. E. Taylor and R. Horneck are disposing and assigning their property with intent to hinder, delay and defraud their creditors, and are removing and intend to remove their property out of the State so that process of execution on a decree when obtained in said suit, will be unavailing; and,

Whereas, upon such affidavit, the plaintiff doth now require me, the said Clerk, to endorse on a summon an order to the officer to whom it is directed to attach the said estate of the said defendants, R. Horneck and G. E. Taylor, partners as aforesaid, whether in their hands or in the hands of others;

Therefore, we order and command you this day to attach the estate of the above mentioned defendants for the amount of said claim of said McMillan & Hazen Company, together with sufficient amount to pay the costs of this suit, and such estate so attached in your hands to secure that the same may be forthcoming and liable to further proceedings thereupon to be had before our Circuit Court at the next ~~xxx~~ May term thereof, 1910; and that you on the 1st day of said term have then and there this writ, and make return how you have executed the same.

Witness H.C.T. Ewing, Clerk of our said Court, at the court-house thereof, in the County of Lee and State aforesaid, the <sup>21<sup>st</sup></sup> ~~20<sup>th</sup>~~ day of January, 1910, in the 134th year of the Commonwealth.

H.C.T. Ewing,, Clerk.

A Copy Teste:  
H.C.T. Ewing, Clerk.

The Commonwealth of Virginia,

To the Sheriff of the County of <sup>Win</sup>~~Lee~~, Greeting:

WE COMMAND YOU That you summon R. Horneck and G. E. Taylor, late partners

in trade under the firm name of Horneck Construction Company,  
and R. L. Pennington, receiver of the Horneck Construction Co., and  
John Kirk.

to appear at the Clerk's Office of the Circuit Court of the County of Lee, at the rules to be held for the said Court on the first Monday in March 1910, 19    , to answer a bill in Chancery, exhibited against them in our said court by

McMillen and Hazen Company a corporation,

And have then there this writ. Witness, H. C. T. Ewing, Clerk of our said Court, at the court-house, the 21<sup>st</sup> ~~XXXX~~ day of January, 1910, 19    , and in the 134 year of the Commonwealth.

A Copy Test:

H. C. T. Ewing,

Clerk.

H. C. T. Ewing, Clerk.

McMillan & Hazen  
Co. Inc.

SUBPOENA

vs.

IN CHANCERY.

Hornick Construc-  
tion Co. et al  
Cummington Bros. p. p.

To 1st March Rules,  
Circuit Court.

1910.

Executed by delivering  
a true copy of the  
within summons &  
attachment to G. E.  
Taylor - this copy  
27 1910 - fee  
paid by R. L.  
Cummington  
J. B. Kiser. Swc.

COMMONWEALTH OF VIRGINIA,

TO THE SHERIFF OF THE COUNTY OF LEE, GREETING:

Whereas McMillan & Hazen Company, a Corporation, this day filed its amended bill against R. Horneck and G. E. Taylor, late partners in trade under the name of Horneck Construction Company and Robt. L. Pennington, Receiver of Horneck Construction Company, and John Kirk, in the Clerk's Office of our Circuit Court, in the County of Lee, for the purpose of having an attachment to secure and enforce its claim against the said G. E. Taylor and R. Horneck, partners as aforesaid, to a certain debt claimed by the said McMillan & Hazen Company against the said R. Horneck and G. E. Taylor, partners; and,

Whereas Robt. L. Pennington, agent and attorney for the said plaintiff in the said bill, has before me in my said office in the County of Lee and State of Virginia, made affidavit that the plaintiffs claim is believed to be just and is now due and payable; that the affiant believes that the plaintiff is entitled to and ought to recover at least the sum of \$428.69, with interest thereon from the 1st day of November, 1908, until paid, as against the said R. Horneck and G. E. Taylor, partners. And to the best of the affiant's belief the said defendant, the said R. Horneck, is a non-resident of the State of Virginia and has estate, debts, and property owing and belonging to him within the said County of Lee, and that the said G. E. Taylor and R. Horneck are disposing and assigning their property with intent to hinder, delay and defraud their creditors, and are removing and intend to remove their property out of the State so that process of execution on a decree when obtained in said suit, will be unavailing; and,

Whereas, upon such affidavit, the plaintiff doth now require me, the said Clerk, to endorse on a summon an order to the officer to whom it is directed to attach the said estate of the said defendants, R. Horneck and G. E. Taylor, partners as aforesaid, whether in their hands or in the hands of others;

Therefore, we order and command you this day to attach the estate of the above mentioned defendants for the amount of said claim of said McMillan & Hazen Company, together with sufficient amount to pay the costs of this suit, and such estate so attached in your hands to secure that the same may be forthcoming and liable to further proceedings thereupon to be had before our Circuit Court at the next ~~term~~ May term thereof, 1910; and that you on the 1st day of said term have then and there this writ, and make return how you have executed the same.

Witness H.C.T. Ewing, Clerk of our said Court, at the court-house thereof, in the County of Lee and State aforesaid, the ~~20th~~ 1st day of January, 1910, in the 134th year of the Commonwealth.

H. C. T. Ewing, Clerk.

*The Commonwealth of Virginia,*

*To the Sheriff of the County of Lee, Greeting:*

WE COMMAND YOU That you summon R. Horneck and G. E. Taylor, late partners  
in trade under the firm name of Horneck Construction Company,  
and R. L. Pennington, receiver of the Horneck Construction Co., and  
John Kirk,

to appear at the Clerk's Office of the Circuit Court of the County of Lee, at the rules to be held for the said  
Court on the first Monday in March 1910, to  
<sup>an amended</sup> answer a bill in Chancery, exhibited against them in our said court by  
McMillen and Hazen Company a corporation,

And have then there this writ. Witness, H. C. T. Ewing, Clerk of our said Court, at the court-house, the 22<sup>nd</sup>  
~~12<sup>th</sup>~~ day of January, 1910, and in the 134<sup>th</sup> year of the  
Commonwealth.

*H. C. T. Ewing,*

Clerk.



McMillen & Hyman Co.

55. { In Charge

Harwick Construction Co

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The Globe Crushed Envelope  
SIZE 10-1 1/2